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JC961 U.S. PTO

12-10-01  
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CERTIFICATE OF EXPRESS MAIL

NUMBER EL291394040US

DATE OF DEPOSIT November 13, 2001

I hereby certify that this paper or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Washington, D.C. 20231.

*Nanci D. Mohr*  
Nanci D. Mohr

J1000 U.S. PTO  
10/010731  
11/13/01

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Dkt. No.: MOBT:193--2

Prior Application Examiner:  
A. Nelson

Classification Designation:

Prior Group Art Unit: 1638

BOX PATENT APPLICATION  
Commissioner for Patents  
Washington, D.C. 20231

REQUEST FOR FILING DIVISIONAL APPLICATION  
UNDER 37 C.F.R. § 1.53(b)

This is a request for filing a divisional application under Rule 53(b) (37 C.F.R. § 1.53(b)) of co-pending prior application Serial No. 09/003,198, filed January 7, 1998, entitled "*ANTIFUNGAL POLYPEPTIDE FROM ALFALFA AND METHODS FOR CONTROLLING PLANT PATHOGENIC FUNGI.*"

- ☒ 1. Enclosed is a copy of the prior application Serial No. 09/003,198 as originally filed, including specification, claims, drawings, abstract and declaration. The undersigned hereby verifies that the attached papers are a true copy of the prior application as originally filed and identified above, that no amendments (if any) referred to in the declaration filed to complete the prior application introduced

new matter therein, and further that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

(a) ☒ The inventorship is the same as prior Application Serial No. 09/003,198.

(b) ☐ Deletion of inventor(s). Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. § 1.63(d)(2) and 1.33(b).

(c) ☐ Priority of foreign patent application number \_\_\_\_\_, filed \_\_\_\_\_ in \_\_\_\_\_ is claimed under 35 U.S.C. § 119(a)-(e). The certified copy:  
☐ is enclosed.  
☐ has been filed in the prior Application Serial No. \_\_\_\_\_

☒ 2. This application is being filed without filing fees. The Commissioner is requested to grant Applicants a filing date in accordance with Rule 1.53, and supply Applicants with a Notice of Missing Parts in due course, in accordance with the provisions of Rule 1.53(f).

☐ 3. Enclosed is a check in the amount of \_\_\_\_\_ to cover the filing fee as calculated below and the fee for any new claims added in the Preliminary Amendment referred to in Part No. 9 below.

CLAIMS AS FILED IN THE PRIOR APPLICATION  
LESS CLAIMS CANCELED BELOW

FOR	NUMBER FILED	NUMBER EXTRA	RATE	FEE
Basic Fee -----				\$740.00
Total Claims	10 - 20 =	X	\$18.00 =	
Independent Claims	7 - 3 =	4 X	\$84.00 =	\$336.00
Multiple Dependent Claim(s) -----				\$-0-
<b>TOTAL FILING FEES:</b>				<b>\$1,076.00</b>

- ☐ 4. Applicant is entitled to Small Entity Status for this application.
- ☐ (a) A small entity statement is enclosed.
- ☐ (b) A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
- ☐ (c) Small entity status is no longer claimed.
- ☐ 5. The Commissioner is authorized to charge the fee of \$\_\_\_\_\_ to Deposit Account No. \_\_\_\_\_. Should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct said fees from Deposit Account No. \_\_\_\_\_.
- ☒ 6. Enclosed is a copy of the current Powers of Attorney in the prior application.
- ☒ 7. Address all future communications to:
- Elizabeth Graf  
HOWREY SIMON ARNOLD & WHITE, LLP  
750 Bering Drive  
Houston, Texas 77057-2198  
(713) 787-1400
- ☒ 8. The prior application is presently assigned to Monsanto Company.

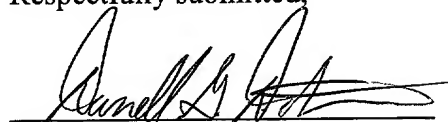
- ☐ 9. Enclosed is a preliminary amendment. Any additional fees incurred by this amendment are included in the check at No. 3 above and said fee has been calculated after calculation of claims and after amendment of claims by the preliminary amendment.
- ☒ 10. Cancel in this application claims 1-5, 7-18, 20-24, and 32 of the prior application before calculating the filing fee. (At least one original independent claim must be retained).
- ☒ 11. Amend the specification by inserting before the first line the sentence: --This is a divisional of co-pending application Serial No. 09/003,198, filed January 7, 1998, now U.S. Patent No. 6,316,407, which is a divisional of Serial No. 08/766,355, filed December 13, 1996, now U.S. Patent No. 6,121,436. --
- ☐ 12. Enclosed are formal drawings.
- ☐ 13. An Information Disclosure Statement (IDS) is enclosed.
- ☐ (a) PTO-1449.
- ☐ (b) Copies of IDS citations.
- ☒ 14. Transfer the sequence information, including the computer readable form previously submitted in the parent application, Serial No. 09/003,198 filed January 7, 1998, for use in this application. Under 37 C.F.R. § 1.821(e), Applicants state that the paper copy of the sequence listing in this application is identical to the computer readable copy in parent application Serial No. 09/003,198 filed January 7, 1998. Under 37 C.F.R. § 1.821(f), Applicants also state that the information recorded in computer readable form is identical to the written sequence listing.

☒ 15. Other:

1. Assignment Recordation Form to Monsanto Company;
2. Copy of Stamped PTO Form 1595; and
3. Copy of Assignment.

☒ 16. Return Receipt Postcard (should be specifically itemized).

Respectfully submitted,



Darrell G. Dotson  
Reg. No. 44,661

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Houston, Texas 77057-2198  
(713) 787-1400

Attorney for Applicant

Date: November 13, 2001